

I. CLAIM 7 SATISFIES THE REQUIREMENTS OF 35 U.S.C. §112, SECOND PARAGRAPH

The Office Action rejects claim 7 under 35 U.S.C. §112, second paragraph, for an informality. Claim 7 has been amended to obviate this rejection. Withdrawal of the rejection under 35 U.S.C. §112, second paragraph, is respectfully requested.

II. THE CLAIMS DEFINE ALLOWABLE SUBJECT MATTER

The Office Action rejects claims 1-4, 6-8, 10 and 11 under 35 U.S.C. §102(e) as unpatentable over U.S. Patent No. 6,248,633 to Ogura et al. (hereinafter "Ogura 1"); rejects claims 1-12 under 35 U.S.C. §102(e) as unpatentable over U.S. Patent Application No. 2002/0168813 to Ogura et al. (hereinafter "Ogura 2"); rejects claims 5 and 12 under 35 U.S.C. §103(a) as unpatentable over Ogura 1 in view of U.S. Patent No. 6,091,101 to Wang (hereinafter "Wang"); and rejects claim 9 under 35 U.S.C. §103(a) as unpatentable over Ogura 1 in view of U.S. Patent No. 4,372,031 to Tsaur (hereinafter "Tsaur"). The rejections are respectfully traversed.

In particular, Ogura 2 does not qualify as prior art under 35 U.S.C. §102(e) over the above-identified application because Ogura 2 does not qualify as prior art under any section of 35 U.S.C. §102. Specifically, the effective prior art date of Ogura 2 is March 26, 2001. However, this application claims priority of Japanese application JP 2001-21930, filed on January 30, 2001. See MPEP §201.15. A verified English translation of Japanese Priority Application JP 2001-21930 is attached.

Accordingly, because Ogura 2 does not qualify as prior art under any section of 35 U.S.C. §102, Applicants assert that Ogura 2 can not be used as prior art under 35 U.S.C. §102.

The Office Action also rejects claims 1-4, 6-8, 10 and 11 under §102(e) over Ogura 1. Regarding independent claim 1, the Office Action asserts that Ogura 1, in Fig. 4F, discloses the claimed invention, including the feature "a pair of the first and second control gates,

adjacent in a second direction which intersects the first direction, is connected to a common contact section", as claimed in claim 1.

However, the Office Action's interpretation of the device disclosed in Ogura 1 with respect to the device of the claimed invention is incorrect. Nowhere in its disclosure, Ogura 1 discloses, teaches or suggests, inter alia, first and second control gates that extend in a first direction; and an end of the first control gate and an end of the second control gate that are adjacent to each other in a second direction which intersects the first direction, being connected to a common contact section, as recited in claim 1, and similarly recited in new independent claims 13, 17 and 18.

Moreover, Ogura 1, either alone or in combination with Wang, does not teach or suggest that the insulating layer of the common contact section is formed of a laminate consisting of a first silicon oxide layer, a silicon nitride layer, and a second silicon oxide layer, as claimed in dependent claim 5, and similarly recited in new dependent claims 15 and 19.

Further, Tsaur fails to make up for the deficiencies of Ogura 1.

Applicants respectfully submit that independent claim 1 distinguishes over the applied art. Claims 2-12, also distinguish over the applied art for at least the reasons discussed above as well as for additional features they recite. Withdrawal of the rejections of claims 1-12 under 35 U.S.C. §102(e) and 35 U.S.C. §103(e) is respectfully requested.

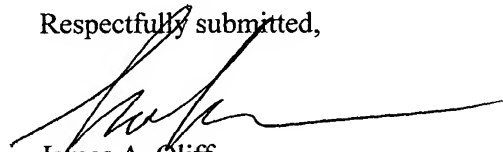
Applicants further submit that new claims 13-19 distinguish over the applied art for at least the reasons discussed above.

III. CONCLUSION

For at least the reasons discussed above, it is respectfully submitted that this application is in condition for allowance.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact Applicants' undersigned representative at the telephone number listed below.

Respectfully submitted,



James A. Oliff  
Registration No. 27,075

George P. Simion  
Registration No. 47,089

JAO:GPS/hs

Date: March 3, 2003

Attachments:

Appendix

Verified English Translation of Japanese Priority Application JP 2001-21930

**OLIFF & BERRIDGE, PLC**  
**P.O. Box 19928**  
**Alexandria, Virginia 22320**  
**Telephone: (703) 836-6400**

**DEPOSIT ACCOUNT USE  
AUTHORIZATION**

Please grant any extension  
necessary for entry;

Charge any fee due to our  
Deposit Account No. 15-0461

APPENDIX

Claims 13-19 are added.

Changes to Claims:

The following is a marked-up version of the amended claims:

7.     (Amended)     The semiconductor integrated circuit device as defined in claim 1, wherein:

~~the~~ a buried insulating layer is formed between the two side insulating layers disposed in contact with the first and second control gates; and

          the buried insulating layer covers the adjacent first and second control gates.